

FlashPoints

Hazardous Materials and Transportation Safety Newsletter



Spring 2000

Upcoming TSI Classes in Oklahoma City:

Transportation of Hazmat
-Basic Mar 6-10, May 15-19,
Jun 19-23, Jul 10-14, Aug 7-11
-Recurrent Jun 6-8, Sep 19-21

Motor Carrier Safety Regs
Mar 20-24, May 15-19, Jun 19-23,
Aug 14-18

Air Transportation of Hazmat (ICAO/IATA) Sep 6-8

IMDGC Aug 21-25

Instructor Training: Hazmat Modules May 22-24, Jul 17-19

Cargo Tanks Aug 14-18

Cylinders Jun 6-8

Explosives Aug 1-4

Performance-Oriented Packaging May 16-18

Haz Wastes & Substances
May 9-12

Radioactive Materials
Apr 25-28

Infectious Substances
Mar 22-23, Jul 6-7

Customized and on-site training also available.

For more information on these and other classes, or to receive a training brochure, please contact the TSI Hazardous Materials and Transportation Safety Division.

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Information in this newsletter is summary in nature and should not be used as a sole source to determine compliance with transportation and safety regulations. This newsletter is a TSI training tool and materials contained here are **not** considered as official statements, positions, or opinions of the U.S. Department of Transportation.

To be added/removed from the *FlashPoints* e-mailing list please contact: Hazmat@tsi.jcabi.gov

Training FAQ's Frequently Asked Questions About Hazmat Training



Hazmat class at TSI training facility in Oklahoma City

Training. It's an area often cited for hazmat violations by DOT and state enforcement agencies. Though it is one of the most basic requirements of the DOT's Hazardous Materials Regulations (HMR), it is an area that all too often falls through the cracks. Here are some of the training questions we at TSI hear the most:

Who needs hazmat training? All hazmat employees—that is, every employee that directly affects the safety of a haz-

mat shipment—must be trained. This is not just the packager, document clerk, or driver who specializes in hazardous materials. Clerical staff that help with shipping papers, loading & unloading personnel, freight handlers, foremen & supervisors, etc., all become hazmat employees when a shipment they help move is subject to the HMR.

What must hazmat training include? There are three areas of training that all hazmat employees must receive:

- ① General Awareness/Familiarization
- ② Function Specific
- ③ Safety

Further definition of these three areas can be found in 49 CFR 172.704(a). How an employer trains its employees in these areas is up to the employer. Training requirements will vary from employee to employee depending on their hazmat du-

(Training, continued on page 3)

Some Van Operators to Fall Under Federal Rules

Bill Syme

TSI Motor Carrier Safety

The Federal Motor Carrier Safety Administration (FMCSA) is adding a small vehicle segment to its "commercial motor vehicle" definition in order to gather information in response to the Transportation Equity Act for the 21st Century (TEA-21). The enactment is accomplished through two different dockets submitted on September 3, 1999. The first docket established an Interim Final Rule published September 3, 1999, but, not effective until March 3, 2000 (6 months). This action is to allow time for the second docket of the

same issue date, a Proposed Rulemaking, to solicit comments. Both the Interim



Many van services will now fall under some of the Federal Motor Carrier Safety Regulations.

Final Rule and the Proposed Rulemaking will impact many interstate van operators as well as *intrastate* operators located in states that automatically adopt the Federal Motor Carrier Safety Regulations as state law.

The change is as follows: The *Commercial Motor Vehicle* definition in 390.5 is amended to include any self-propelled or towed motor vehicle used on

(Vans, continued on page 4)



Who or What is the RSPA?

If you deal with hazardous materials transportation, sooner or later you will come across the initials "RSPA" (commonly pronounced "Rispa") in reference to a branch of the US DOT. Despite following RSPA regulations in their everyday operations, many shippers, carriers, and enforcement personnel do not know who or what the RSPA is and does.

The **R**esearch and **S**pecial **P**rograms **A**dministration is one of the eleven major agencies of the US Department of Transportation. The Office of Hazardous Materials Safety, the Office of Pipeline Safety, and the Transportation Safety Institute are among the many programs under the RSPA umbrella. So when you transport hazardous materials to, from, or within the United States, you do so according to the applicable RSPA regulations.

Though many people associate the Hazardous Materials Regulations (49 CFR parts 100-185) with those DOT modal agencies that enforce them (Federal Aviation Administration, Coast Guard,

Federal Railroad Administration, and the newly organized Federal Motor Carrier Safety Administration), RSPA is the DOT agency that actually issues and updates these regulations. RSPA's Office of Hazardous Materials Safety which is responsible for these regulations also has its own inspection and enforcement division which concentrates on shippers, intermodal transferors, packaging manufacturers and testing companies, and cylinder and tank re-testers.

Ms. Kelley Coyner is the current RSPA Administrator. You can visit the RSPA at the RSPA web site: <http://www.dot.rspa.gov> ♦

See You There...

Representatives from the TSI Hazardous Materials & Transportation Safety Division will be participating in the following events this Spring:



COSTHA, Phoenix, Mar 6-8

DOT Hazmat Seminar, Secaucus, NJ, Mar 28-29

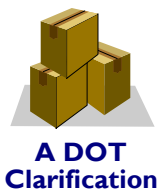
International Intermodal Expo, Atlanta, Apr 11-13

COHMED, Orlando, Apr 16-20

CVSA, Tampa, FL, Apr 26-28

—So say hello if you see us!

Expiration Dates for Non-bulk Packaging?



A DOT Clarification

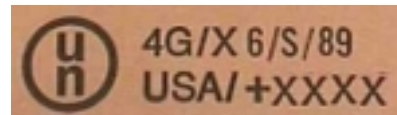
In 1997 a shipper buys a supply of packages that are fiberboard boxes which have been tested and marked as meeting UN 4G specifications.

A "97" is included in the UN marking to show the year the package was tested. Three years later when the shipper offers one of these boxes containing hazardous materials to a carrier, the carrier's freight clerk balks at the shipment because of the test date on the package. The clerk explains that

UN4G packaging must be tested every two years and it's been three years since this package has been tested. So they won't accept it.

Aarrgh! This is a common misconception. The clerk is actually referring to the testing intervals for the original manufacturing/testing process. The re-test rule does not apply to marked packages from a batch that has already been tested.

The DOT addressed this issue in a recent letter of clarification, saying: "*A package manufactured prior to the re-test date may be used at any time to transport hazardous material*



Non-bulk Spec Packaging: On the shelf an unused '89 is as good as a '99.

for which it is authorized. Non-bulk specification packaging does not expire. However, the shipper must determine that the packaging has been manufactured, assembled, and marked in accordance with the HMR (§173.22(a)) and if used more than once, must comply with §173.28."

Recent and past DOT clarification letters are available on the web at <http://hazmat.dot.gov> under the "Rules & Regulations" section. ♦

(*Training, continued from page 1*)

ties. The DOT does not set forth any type of training regimen nor does the DOT mandate adherence to any industry standards, endorsements, or certifications regarding training & testing. Employees must be "tested" but this does not require a written test—though many prefer written tests for ease of record keeping. The test passing standard is also left up to the employer.

How often must training be conducted? After initial training, recurrent training is required at least every three years. Yes, it's three years in the US (it used to be two). The ICAO regulations and IATA airline

standards specify recurrent training every two years, but this is not the law in the US. Many who ship hazardous materials by commercial aircraft choose to do recurrent training every two years in order to remain current on the *ICAO Technical Instructions* which are updated biannually and the *IATA Dangerous Goods Regulations* which are updated annually.

Who is qualified to be a trainer?

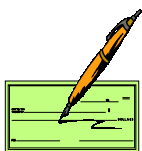
The DOT does not set any qualification standard for trainers nor does it require trainers to meet any industry standards. There is no such thing as a DOT certified, licensed, or approved trainer for hazmat transporta-

tion. As there is no regulation of such training, the quality of training organizations may vary greatly. Employers should choose training suppliers carefully—quick and cheap training may not be quality training. A list of hazmat training companies is available at the DOT Hazmat website: <http://hazmat.dot.gov> The DOT only lists these companies and does not imply any recommendations or approvals of the companies listed.

How do we get our employees "certified" for the DOT, ICAO/IATA, and IMO regulations? "Certification" as it is used in the professional world does not exist

(*Training, continued on page 4*)

DOT Expands Hazardous Materials Registration Program —Are You Now Subject?



The DOT has expanded its hazardous materials registration program (see 49 CFR Part 107, Subpart G) to include those who offer or carry a shipment of hazardous materials that requires placarding. Period. That's right, if you are subject to the DOT Hazardous Materials Regulations and you offer or carry a shipment of hazardous materials that requires placarding—including consignments of non-bulk packages—you will now be subject to the DOT's hazardous materials registration fee. Depending on the size of your company, this registration will cost either \$300 or \$2000 per year. The registration program will not apply to farmers as long as the transportation is in direct support of the farmer's farming operations.

This major expansion of the registration program (also known by its docket number, RSPA-99-5137 or "HM-208C") goes into effect May 1, 2000. The registration year runs from July 1st to June 30th, so persons have until June 30, 2000 to complete the registration process for the 2000-2001 registration year. Newly revised registration forms (DOT Form F 5800.2) are expected to be available in mid April from the DOT's hazmat Registration Program office and on the DOT hazmat

website: <http://hazmat.dot.gov> (make sure you get the 2000-2001 form). Registrants can contact the Registration Program office before April and request to be put on a mailing list for the new form. (See contact info at bottom of page.)

Small businesses (as defined by the Small Business Administration) will be subject to the \$300 (\$275 + \$25 processing) registration fee and larger businesses will pay the \$2000 (\$1975 + \$25 processing) registration fee. The guidelines for determining the "small business" criteria are available at: <http://www.sbaonline.sba.gov/regulations/siccodes/>

The DOT's Research & Special Programs Administration (RSPA) uses the fees from this registration program to fund hazmat emergency response training grants throughout the country. The registration program also allows the RSPA to gather information on hazardous materials movements throughout the US. Expanding the registration program to include all placarded shipments is expected to bring the number of registrants from around 27,500 to approximately 45,000 (43,500 of which should be small businesses).

For the complete information of this rulemaking as it appeared in the Federal Register on February 14th, go to <http://hazmat.dot.gov> and click on "New Additions & Updates".

Further questions and comments can be directed to the Registration Program office by phone: (202) 366-4109, or by e-mail: register@rspa.dot.gov ♦



Many more shippers of non-bulk packages will now be subject to the hazmat registration fee when the new placard rule takes effect.

(*Vans*, continued from page 1)

a highway in interstate commerce to transport passengers or property :

- (1) When the vehicle has a gross vehicle weight rating or gross combination weight rating, or gross vehicle weight or gross combination weight of 10,001 pounds or more, whichever is greater; *or*
- (2) Is designed or used to transport more than 8 passengers (including the driver) for compensation; *or*
- (3) Is designed or used to transport more than 15 passengers, including the driver, and is not used to transport passengers for compensation; *or*
- (4) Is used in transporting material found by the Secretary of Transportation to be hazardous under USC 5103 and requiring placarding.

Don't over-comply in this area yet! The Proposed Rulemaking only requires compliance with Parts 385.21, filing of a motor carrier identification report; 390.21, marking requirements; and 390.15, accident reporting requirements to include the accident register. The whole activity is designed to learn more about the operational safety of motor carriers operating small passenger vehicles for compensation. Watch the Government Printing Office's Electronic Bulletin Board service at <http://www.nara.gov/fedreg> for the final rule. ♦

(*Training*, continued from page 3)

with hazmat training. There is no recognized professional standard to attain. The DOT does not certify people nor does ICAO, IATA, or the IMO. Professional training agencies like TSI or commercial companies don't bestow any special certification on students either. The only "certification" that exists in hazmat training is an act of record keeping where the employer certifies (states in writing) that an employee has received the appropriate training (49 CFR 172.704(d)(5)). As such, the only person who can certify that an employee is trained is the only one who knows all the job duties of the employee—the employer. A DOT clarification letter

pointed out that employers may choose to let an outside training agency fulfill their training and record-keeping duties. In this case, an outside company may certify on

behalf of the employer that an employee is trained. The employer is ultimately responsible for the training record though and should be very careful here.

Can a copy of a training certificate suffice as the training record? Certificates or diplomas from training courses are nice to have and may help in the record-keeping process, but they don't always contain all the information that is required in a training record (see 49 CFR 172.704(d)): 1. Hazmat employee's name; 2. Most recent training completion date; 3. Description, copy, or location of training materials; 4. Name and address of person providing the training; and 5. Certification (statement) that the employee has been trained and tested according to 49 CFR Part 172, Subpart H.

Do air shippers and carriers need an IATA-endorsed training class? No. Some air transport hazmat courses are "endorsed" by IATA. This may help a person select a good trainer for the *IATA Dangerous Goods Regulations*, however, this endorsement has no legal bearing regarding training in the US. IATA-endorsed training is not required to



Motor Carrier Safety Seminars

405-949-0036 x379



Learn more about the Federal Motor Carrier Safety Regulations at one of TSI's 3-Day regional seminars:

<u>City</u>	<u>Dates</u>
Denver, CO	Mar 6-8
Chicago, IL	Apr 11-13
Tampa, FL	Apr 26-28
Hudson, OH	May 9-11
Fargo, ND	Jun 7-9
Las Vegas, NV	Jun 27-29
Kansas City, MO	Jul 11-13
Sacramento, CA	Jul 25-27
Minneapolis, MN	Aug 8-10
Detroit, MI	Aug 29-31
Salem, NH	Sep 12-14
Seattle, WA	Sep 26-28

offer or carry hazardous materials by aircraft in the US. IATA endorsement also doesn't guarantee that a trainer is up-to-speed on the unique HMR requirements that hazmat shippers and carriers must follow in the US.

Can we train ourselves? Yes. In-house training is a good option when you have someone who is proficient in the regulations *and* good at teaching. TSI and many commercial training services have "train-the-trainer" type classes that can help prepare an in-house instructor.

Take the time to review the training requirements found in 49 CFR Part 172, Subpart H (172.700's) and then review your own training records. If you still have any questions about training and hazardous materials transportation, please contact us here at TSI. ♦



Training methods are optional. Field trip, TSI Cargo Tank class.